

General Information Letter: Organizations exempt from federal income tax under IRC Section 501(a) are subject to Illinois income tax only on unrelated business taxable income.

June 8, 2005

Dear:

This is in response to your letter dated April 29, 2005 in which you state the following:

The COUNTY 4-H Foundation is considering erecting a billboard sign with the express purpose of increasing the visibility of the 4-H program throughout COUNTY.

The COUNTY 4-H Expansion and Review Committee, the group responsible for examining ways to promote the 4-H program, initiated this concept. This group is willing to pursue the idea and has already inquired into the need to: 1) negotiate the cost of a billboard lease with a property owner, 2) submit permit applications to Illinois Department of Transportation and county officials, and 3) ordering and installing the proposed sign and providing for an electrical connection to be made.

Billboard signs of this nature can generally be viewed by passing traffic on two sides, with either one or two printed signs per side. The 4-H Expansion and Review Committee would take responsibility for collecting corporate donations to the COUNTY 4-H Foundation, designing the advertising promoting the 4-H program.

It is the committees feeling that income generated by selling monthly advertising space on the remaining one, two or three rented sides would pay for the ongoing design, printing and installation of new signage on a not-for-profit basis.

We would appreciate know of any legal issue that would prevent this from occurring and await your decision.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Your letter does not indicate whether your Foundation has been determined by the Internal Revenue Service to be exempt from federal income taxes under §501(c)(3) of the Internal Revenue Code ("IRC"). If your Foundation is exempt under IRC §501(c)(3), your organization would also be exempt from determining base income under §203 of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.) except for any unrelated business taxable income as determined by §512 of the IRC. The relevant statute is IITA §205(a) that states as follows:

- (a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal

Revenue Code shall not be determined under Section 203 of this Act, but shall be its unrelated business taxable income as determined under Section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by Section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

Your Foundation may also be required to file an Illinois income tax return. Section 502(a) of the IITA describes when an Illinois income tax return is required. The first situation is when a taxpayer is liable for Illinois income tax. The second situation is, in the case of a corporation which is qualified to do business in Illinois, for which such person is required to make a federal income tax return, regardless of whether such person is liable for Illinois income tax.

Regardless of whether your Foundation is exempt from federal income taxation under §501(a), if it is determined at the federal level that your Foundation earned unrelated business taxable income, this income will also be subject to Illinois income taxation. Enclosed please find Form IL-990-T along with its corresponding instructions for your reference. An organization required to file Form IL-990-T must also register with the Illinois Department of Revenue by filing Form REG-1 which is also enclosed for your convenience.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax